

### 13-15-2 Definitions.

As used in this chapter:

- (1)
  - (a) "Assisted marketing plan" means the sale or lease of any products, equipment, supplies, or services that are sold to the purchaser upon payment of an initial required consideration of \$500 or more for the purpose of enabling the purchaser to start a business, and in which the seller represents:
    - (i) that the seller will provide locations or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases, or other similar devices, or currency operated amusement machines or devices, on premises neither owned nor leased by the purchaser or seller;
    - (ii) that the seller will purchase any or all products made, produced, fabricated, grown, or modified by the purchaser, using in whole or in part the supplies, services, or chattels sold to the purchaser;
    - (iii) that the seller will provide the purchaser with a guarantee that the purchaser will receive income from the assisted marketing plan that exceeds the price paid for the assisted marketing plan, or repurchase any of the products, equipment, supplies, or chattels supplied by the seller if the purchaser is dissatisfied with the assisted marketing plan; or
    - (iv) that upon payment by the purchaser of a fee or sum of money, which exceeds \$500 to the seller, the seller will provide a sales program or marketing program that will enable the purchaser to derive income from the assisted marketing plan that exceeds the price paid for the marketing plan.
  - (b) "Assisted marketing plan" does not include:
    - (i) the sale of an ongoing business when the owner of that business sells and intends to sell only that one assisted marketing plan;
    - (ii) not-for-profit sale of sales demonstration equipment, materials, or samples for a total price of \$500 or less; or
    - (iii) the sale of a package franchise or a product franchise defined by and in compliance with Federal Trade Commission rules governing franchise and business opportunity ventures.
  - (c) As used in Subsection (1)(a)(iii) "guarantee" means a written agreement, signed by the purchaser and seller, disclosing the complete details and any limitations or exceptions of the agreement.
- (2) "Business opportunity" means an assisted marketing plan subject to this chapter.
- (3) "Division" means the Division of Consumer Protection of the Department of Commerce.
- (4)
  - (a) "Initial required consideration" means the total amount a purchaser is obligated to pay under the terms of the assisted marketing plan, either prior to or at the time of delivery of the products, equipment, supplies, or services, or within six months of the commencement of operation of the assisted marketing plan by the purchaser. If payment is over a period of time, "initial required consideration" means the sum of the down payment and the total monthly payments.
  - (b) "Initial required consideration" does not mean the not-for-profit sale of sales demonstration equipment, materials, or supplies for a total price of less than \$500.
- (5) "Person" means any natural person, corporation, partnership, organization, association, trust, or any other legal entity.
- (6) "Purchaser" means a person who becomes obligated to pay for an assisted marketing plan.

- (7) "Registered trademark" or "service mark" means a trademark, trade name, or service mark registered with the United States Patent and Trademark Office, or Utah, or the state of incorporation if a corporation.
- (8) "Seller" means a person who sells or offers to sell an assisted marketing plan.

Amended by Chapter 152, 2012 General Session